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UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

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| In the Matter of: |) |
| |) |
| HITECH LASERS (PTY) Ltd. |) |
| Metropolitan Building |) |
| Stop 6, Post Office Box |) |
| 3063 Pretoria, 0001 |) |
| South Africa, |) |
| |) |
| Respondent |) |

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce ("BXA"), having initiated an administrative proceeding against Hitech Lasers (PTY) Ltd. (hereinafter "Hitech") pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the "Act"),¹ and the Export Administration Regulations (15 C.F.R. Parts 730-774 (1999)) (the "Regulations"),* based on allegations that Hitech,

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)), and August 10, 1999 (64 Fed. Reg. 44101 (August 13, 1999)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1999)).

² The alleged violation occurred in 1995. The Regulations governing the violation at issue are found in the 1995 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995)). Those Regulations define the violation that BXA alleges occurred

contrary to a condition on the export license that authorized the export of a U.S.-origin laser system to it in South Africa, installed the laser system in a nuclear facility in South Africa, in violation of Section 787.2 of the former Regulations; and

BXA and Hitech having entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby BXA and Hitech have agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED,

FIRST, that a civil penalty of \$10,000 is assessed against Hitech, \$5,000 of which shall be paid to the U.S. Department of Commerce within 30 days of the date of this Order. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$5,000 shall be suspended for a period of one year from the date of entry of this Order and shall thereafter be waived, provided that, during the period of suspension, Hitech has committed no violation of the Act, or any regulation, order, or license issued thereunder.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-37203 (1983 and Supp. 1998)), the

and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to this matter.

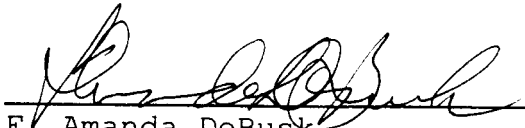
civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Hitech will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that, as authorized by Section 11(d) of the Act, the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted to, or to be granted, to Hitech. Hitech agreed that the one period set forth in Section 11(d) of the Act be extended for an additional four years. Accordingly, if Hitech should fail to pay the civil penalty in a timely manner, the undersigned will enter an Order under the authority of Section 11(d) of the Act and this Order denying all of Hitech's export privileges for a period of five years from the date of entry of this Order.

FOURTH, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022, notifying that office that this case is withdrawn from adjudication, as provided by Section 766.18(b) of the Regulations.

FIFTH, that the Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.


F. Amanda DeBusk
Assistant Secretary
for Export Enforcement

Entered this 20th day of September, 2000.

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

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| HITECH LASERS (PTY) Ltd. |) |
| Metropolitan Building |) |
| Stop 6, Post Office Box |) |
| 3063 Pretoria, 0001 |) |
| South Africa, |) |
| |) |
| Respondent |) |

SETTLEMENT AGREEMENT

This Agreement is made by and between Hitech Lasers (PTY) Ltd. (hereinafter "Hitech") and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(b) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the "Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the "Act").*

¹ The alleged violation occurred in 1995. The Regulations governing the violation at issue are found in the 1995 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995)). Those Regulations define the violation that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to this matter.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)), and August 10, 1999 (64 Fed.



WHEREAS, on April 20, 1999, the Office of Export Enforcement, Bureau of Export Administration ("BXA"), initiated an administrative proceeding against Hitech pursuant to the Act and the Regulations by issuing a Charging Letter alleging that Hitech, contrary to a condition on the export license that authorized the export of a U.S.-origin laser system to it in South Africa, installed the laser system in a nuclear facility in South Africa, in violation of Section 787.2 of the former Regulations;

WHEREAS, Hitech received notice of issuance of the Charging Letter pursuant to Section 766.3(b) of the Regulations;

WHEREAS, Hitech has reviewed the Charging Letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; it fully understands the terms of this Settlement Agreement and the proposed Order; it enters into this Settlement Agreement voluntarily and with full knowledge of its rights, and it states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, Hitech neither admits nor denies the allegations contained in the Charging Letter;

Reg. 44101 (August 13, 1999)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1999)).



WHEREAS, Hitech and BXA wish to settle and dispose of all matters alleged in the Charging Letter by entering into this Settlement Agreement; and

WHEREAS., Hitech agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

NOW THEREFORE, Hitech and BXA agree as follows:

1. BXA has jurisdiction over Hitech, under the Act and the Regulations, in connection with the matters alleged in the Charging Letter.

2. BXA and Hitech agree that the following sanction shall be imposed against Hitech in complete settlement of all alleged violations of the Act and former Regulations arising out of the transactions set forth in the Charging Letter:

- a. Hitech shall be assessed a civil penalty of \$10,000, \$5,000 of which shall be paid to the U.S. Department of Commerce within 30 days of the date of entry of an appropriate Order. Payment of the remaining \$5,000 shall be suspended for a period of one year from the date of entry of the appropriate Order and shall thereafter be waived, provided that, during the period of suspension, Hitech has committed no violation of the Act, or any regulation, order, or license issued thereunder.



b. As authorized by Section 11(d) of the Act, the timely payment of the civil penalty agreed to in paragraph 2a. is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted to; or to be granted, to Hitech. Hitech agrees that the one year period set forth in Section 11(d) of the Act shall be extended for an additional four years. Failure to make timely payment of the civil penalty shall result in the denial of all of Hitech's export privileges for a period of five years from the date of entry of the appropriate Order imposing the civil penalty.

3. Hitech agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the Charging Letter; (b) to request a refund of the civil penalty imposed pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of an appropriate Order, it

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will not initiate any administrative proceeding against Hitech in connection with any violation of the Act or the Regulations arising out of the transaction identified in the Charging Letter.

5. Hitech understands that BXA will make the Charging Letter, this Settlement Agreement, and the appropriate Order, when entered, available to the public.

6. BXA and Hitech agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(b) of the Regulations, BXA and Hitech agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party shall be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

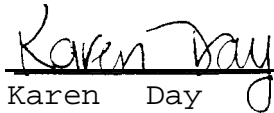
8. This Settlement Agreement shall become binding on BXA

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only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and Order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

HITECH LASERS (PTY) Ltd.



Karen Day

Chief Counsel
for Export Administration



J.L. Olivier
Managing Director

Date: 24 May 2000

Date: 22/5/2000

199. 2. 0 1999



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Export Administration
Washington, D.C. 20230

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Hitech Lasers (PTY) Ltd.
Building 41 Scientia, Brunneria
Pretoria, South Africa

Attention: Mr. J.L. Olivier
Managing Director

Dear Mr. Olivier:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described below, **Hitech Lasers (PTY) Ltd. (Hitech)** has violated the Export Administration Regulations (currently codified at 15 C.F.R. **Parts 730-774 (1998)) (the Regulations)**,¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act).'

Facts constituting a violation:

Charge 1

On or about October 18, 1994, BXA issued a validated export license authorizing the export of a U.S.-origin laser system from the United States to **Hitech** in South Africa. The validated export license included a condition prohibiting use of that laser system by a nuclear end-user or for nuclear end-uses. On or about December 30, 1994, the laser system was exported from the United States to **Hitech** in South Africa. On or about January 20,

¹ The alleged violation occurred in 1995. The Regulations governing the violation at issue are found in the 1995 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995)). Those Regulations define the violation that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to the matters set forth herein.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 **Fed. Reg.** 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).



1995, **Hitech** installed that **U.S.-**origin laser system in a nuclear facility in South Africa, contrary to the terms of the license condition. BXA alleges that, by doing so, **Hitech** caused or permitted the doing of an act in violation of or contrary to the terms of the Act, or any regulation, order, or license issued thereunder, thereby committing one violation of Section 787.2 of the former Regulations.

Accordingly, **Hitech** is hereby notified that an administrative proceeding is instituted against it pursuant to Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty of \$10,000 per violation (see Section 764.3(a)(1) of the Regulations);

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If **Hitech** fails to answer the charge contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

Hitech is further notified that it is entitled to an agency hearing on the record as provided by Section 766.6 of the Regulations, if a written demand for one is filed with its answer, to be represented by counsel, and to seek a settlement.

Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Accordingly, **Hitech's** answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of **Hitech's** answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: **Lairold M. Street, Esq.**" below the address. Mr. Street may be contacted by telephone at (202) 482-5311.

Sincerely,



Mark D. Menefee
Director
Office of Export Enforcement

Enclosure